

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JANE DOE,)	CASE NO. 1:24-cv-962
)	
Plaintiff,)	JUDGE CHARLES E. FLEMING
)	
v.)	
)	
CLEVELAND HEIGHTS-UNIVERSITY)	
HEIGHTS CITY SCHOOL DISTRICT, <i>et al.</i> ,)	MEMORANDUM OPINION AND
)	ORDER
Defendants.)	
)	

Before the Court is Defendants Cleveland Heights-University Heights City School District, Cleveland Heights-University Heights City School District Board of Education, Rachael Coleman, and Joshua Luton's motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6). (ECF No. 10). For the reasons that follow, the Court **DENIES** the motion to dismiss as moot.

I. BACKGROUND

On June 4, 2024, Plaintiff Jane Doe, a minor enrolled as a student at Roxboro Middle School during the 2021-22 academic year, filed a complaint against the Defendants, alleging that another student had sexually harassed and assaulted her; Plaintiff asserts that she submitted forms to school officials alerting them of the wrongdoing and Defendants failed to properly document, investigate, and report the alleged incidents. (ECF No. 1). Plaintiff asserted eight causes of action: (i) Failure to Comply with Title X (Count One); (ii) Deliberate Indifference to Sexual Harassment (Count Two); (iii) Denial of Due Process Count Three); (iv) Denial of Equal Protection (Count Four); (v) *Monell* Liability for Failure to Comply with Title IX (Count Five); (vi) Negligence (Count Six); (vii) Willful and Wanton (Count Seven); and (viii) Intentional Infliction of Emotional Distress (Count Eight). (*Id.* at PageID #6-16).

On August 2, 2024, Defendants filed the instant motion to dismiss, seeking dismissal of the complaint pursuant to Fed. R. Civ. P. 12(b)(6). (ECF No. 10). Defendants argue that Plaintiff, as a minor, lacks capacity to sue, and Cleveland Heights-University Heights City School District is a non-entity that is incapable of being sued. (*Id.* at PageID #58–60). On August 5, 2024, Plaintiff filed an amended complaint that: (i) was filed on Plaintiff's behalf by and through Plaintiff's parent and natural guardian, Natasha Parrish; and (ii) removed Cleveland Heights-University Heights City School District as a defendant. (ECF No. 11).

II. LAW & ANALYSIS

Plaintiff's amended complaint was timely filed as a matter of course. *See* Fed. R. Civ. P. 15(a)(1)(B) (“A party may amend its pleading once as a matter of course within . . . 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.”). “It is well-settled that motions to dismiss are rendered moot upon the filing of an amended complaint.” *Doe v. Oberlin Coll.*, No. 1:17cv1335, 2018 U.S. Dist. LEXIS 237046, at *6 (N.D. Ohio Feb. 23, 2018) (citing cases); *see also Crawford v. Tilley*, 15 F.4th 752, 759 (6th Cir. 2021) (“The general rule is that filing an amended complaint moots pending motions to dismiss.”); *Helms v. Aramark Corr. Servs.*, No. 3:22-cv-1557, 2022 U.S. Dist. LEXIS 231412, at *2 (N.D. Ohio Dec. 21, 2022) (citing *Doe*, 2018 U.S. Dist. LEXIS 237046, at *6). Because Plaintiff has filed a timely amended complaint, and the amended complaint corrects the only two issues raised in the motion to dismiss, the Court **DENIES** Defendants' motion to dismiss (ECF No. 10) as moot.

III. CONCLUSION

The Court **DENIES** Defendants' motion to dismiss the complaint (ECF No. 10) as moot. Defendants shall respond to Plaintiff's amended complaint (ECF No. 11) within the time frame set forth under Fed. R. Civ. P. 15(a)(3).

IT IS SO ORDERED.

Date: August 12, 2024



CHARLES E. FLEMING
U.S. DISTRICT COURT JUDGE